IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

EFA.No. 27 of 2000()

AGAINST THE ORDER DATED 07/08/2000 IN EP. 93 /1994 IN OS.60/1987 of ADDL.SUB COURT, THALASSERY

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APPELLANT:

M/S. INDUSTRIAL CREDIT AND DEVELOPMENT SYNDICATE LTD., KASARAGODE BRANCH, APSARA COMPLEX, BANK ROAD, KASARAGOD.

BY ADV. SRI.S.R.DAYANANDA PRABHU
SRI.K.S.RAJESH

RESPONDENTS:
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1. PUTHIYANDI BINDHU, D/O. GOVINDAN, RESIDING IN KANNUMMAL HOUSE, PAZHASSI AMSOM, MATTANNUR DESOM, THALASSERY TALUK.

2. K. GOVINDAN, S/O. KUNHI ONAKKAN, TAILOR, PARIYARAM, KOLARI, THALASSERY TALUK, KANNUR DISTRICT.

BY ADV. SRI.V.RAMKUMAR NAMBIAR
SRI.K.PRADIU

THIS EXECUTION FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 7748/2000 IN EFA 27/2000

DISMISED.

10-9-2007. SD/- P.R.RAMAN, JUDGE.

SD/- V.K.MOHANAN, JUDGE.

//TRUE COPY//

P.R.RAMAN &
V.K.MOHANAN, JJ.

E.F.A.NO. 27 OF 2000

Dated 10th September, 2007

JUDGMENT

Raman,J

The 2nd respondent in this appeal is the 2nd respondent in the claim petition E.A.412/96 before the court below, who is none other than the father of the claimant. It is seen that service is not complete as against the 2nd respondent. As he is the father of the claimant, for the limited purpose of disposal of this appeal and in the view we are taking, we do not think it necessary to serve notice to the 2nd respondent. The Ist respondent preferred the claim against the property sought to be proceeded in the execution of the decree obtained by the appellant herein. The contention of the Ist respondent is that the property in question was given by way of gift by the father, the 2nd respondent herein in favour of the daughter, of his fractional right in the property. The court below accepted the contention and allowed the claim against which the decree holder/appellant has preferred this appeal.

2. According to the appellant, the transfer is hit by section 53

of the Transfer of Property Act as the transfer is with intend to defraud the creditors. This aspect will be considered by the court below.

In the circumstances, the order of the court below is set aside. The matter is remanded to the court below for fresh consideration. The court below will afford opportunity to the parties including the 2nd respondent and pass appropriate orders. Since the 2nd respondent is not served with notice, we are not fixing a date for appearance. The court below shall, after hearing all the parties including the 2nd respondent, pass orders in accordance with law.

The E.F.A. is disposed of as above.

P.R.RAMAN, JUDGE.

V.K.MOHANAN, JUDGE.

Kvm/

P.R.RAMAN &

V.K.MOHANAN, J J.

EFA No.27 OF 2000

Judgment

Dated:10-9-2007.